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COMMISSION
OFFICE OF GENERAL
COUNSEL

District of Columbia Republican Committee

2008 OCT 27 A 11: 45

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Suite 102
Washington, DC 20005
202 289-8005
fax 202 289-2197
dcgop@aol.com
www.dcgop.com

Robert J. Kabel
Chairman

October 21, 2008

Federal Election Commission
Office of the General Counsel
999 E Street, NW
Washington, DC 20463

MUR # 6110

Re: Complaint against Obama Victory Fund, Obama for America, and the Democratic National Committee

Dear Commissioners:

This letter constitutes a formal complaint filed under 2 U.S.C. § 437g(a) of the Federal Election Campaign Act ("FECA") on behalf of the DC Republican Committee (the "DCRC"). Based upon information and belief, set forth below and in the attached materials, the DCRC believes that the Obama Victory Fund ("OVF"), Obama for America ("OFA"), and the Democratic National Committee ("DNC"), have violated FECA and the Commission's regulations on at least two separate occasions by accepting prohibited corporate in-kind contributions and failing to include the proper solicitation disclaimers. The DCRC believes these two instances are indicative of a greater pattern of such violations and requests that the Commission conduct an immediate investigation.

Bang Salon Spa and VIDA Fitness Fundraising Event

Factual Background

On September 19, 2008, VIDA Fitness ("VIDA") and Bang Salon Spa ("Bang"), which are commercially affiliated with one another, *see* Exhibit A, sent two separate blast emails to the VIDA and Bang customer email lists, *see* Exhibits B and C. The identical emails invited the recipients to attend an OVF fundraising event hosted at VIDA and also contained solicitations for contributions to OVF. *Id.*

The boxed disclaimer stated that the email communication was "[p]aid for by Obama Victory Fund, a joint fundraising committee authorized by Obama for America and the Democratic National Committee. VIDA and Bang do not endorse nor support any political candidate, but do encourage their members and friends to get involved and participate in the electoral process." *Id.* VIDA and Bang's privacy policy, however,

clearly states that "VIDA never sells or rents your name, email address, or any other personally identifiable information to third-parties." See Exhibit D. The policy does state that they "may use your information to communicate special offers, promotions and information about our company to you via email." *Id.*

The Obama Victory Fund Violated FECA by Accepting Prohibited Corporate In-Kind Contributions

FECA prohibits corporations from making "a contribution or expenditure in connection with any election to any [federal] political office," 2 U.S.C. § 441b(a), and defines a contribution as "any gift, subscription, loan, advance, or deposit of money or *anything of value* made by any person for the purpose of influencing any election for Federal office," 2 U.S.C. § 431(8)(A)(i) (emphasis added). Further, Commission Regulations specify that "the term *anything of value* includes all in-kind contributions," 11 C.F.R. § 100.52(d)(1) (emphasis in original), and that "the provision of goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution," *id.* The Regulations add that "[e]xamples of such goods or services include . . . facilities . . . advertising services, membership lists, and mailing lists." *Id.*

Commission Regulations also state that "[c]orporations and labor organizations (including officers, directors or other representatives acting as agents of corporations and labor organizations) are prohibited from facilitating the making of contributions to candidates or political committees" beyond their restricted classes. 11 C.F.R. § 114.2(f)(1). The Regulations provide several examples of this, including "[u]sing a corporate or labor organization list of customers, clients, vendors or others who are not in the restricted class to solicit contributions or distribute invitations to the fundraiser, unless the corporation or labor organization receives advance payment for the fair market value of the list." 11 C.F.R. § 114.2(f)(2)(i)(C).

Although the disclaimer in the VIDA and Bang emails claim that they were paid for by OVF, there are two primary reasons to question this. First, the only way for OVF to have paid for the emails would be to rent the list from VIDA and Bang, which directly contradicts their privacy policy. Second, the emails were sent from VIDA and Bang's corporate email addresses, which suggests that OVF did not rent the email list because OVF, not VIDA and Bang, would have sent the emails. As FECA and the Commission Regulations make perfectly clear, OVF's use of VIDA and Bang's customer email list and the communications sent to that list are things of value and constitute in-kind contributions unless OVF paid the usual and normal charge for such services prior to the emails being sent. If, as it appears, that OVF did not pay VIDA and Bang for the email communication, then OVF has accepted a prohibited corporate in-kind contribution.

The Obama Victory Fund Violated Commission Regulations by Failing to Include the Proper Joint Fundraising Notice on Solicitations

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Commission Regulations require that all joint fundraising committee solicitations must include a joint fundraising notice, in addition to any normal disclaimer. 11 C.F.R. § 102.17(c)(2). Such joint fundraising notices must include such information as the names of all participants, the allocation ratio, a statement informing contributors that they may designate their contributions only for a particular participant, and a statement informing contributors that the allocation ratio may change if the contributor separately contributes to any of the participants. See 11 C.F.R. § 102.17(c)(2)(i).

The emails VIDA and Bang sent clearly contain solicitations for OVF, which is a joint fundraising committee for OFA and the DNC. See Exhibits B and C. The disclaimer, however, does not contain a joint fundraising notice. *Id.*

"A Concert for Change" Fundraising Event

Factual Background

On September 20, 2008, individuals associated with "A Concert for Change" (the "Concert") distributed flyers near the Eastern Market Metro entrance in Washington, DC and posted yard signs promoting the event in the Eastern Market area. See Exhibit E. The organizers also promoted the event on OFA's and the DNC's social networking sections of their websites. See Exhibits F and G. All of the promotional materials submitted as exhibits clearly contain solicitations for either OFA or OVF. They also contain the logos of three corporations – Square Root Sales, Senate Realty, and M&A Development. Some of the materials list individuals affiliated with these corporations as "individual in-kind contributors (sponsors)," see Exhibit E, yet all imply some sort of corporate sponsorship connection, see Exhibits E, F, and G. None of the promotional materials contain disclaimers nor joint fundraising notices. *Id.*

The Obama Victory Fund, Obama for America, and the Democratic National Committee Violated FECA by Accepting Prohibited Corporate In-Kind Contributions

FECA prohibits corporations from making "a contribution or expenditure in connection with any election to any [federal] political office," 2 U.S.C. § 441b(a), and defines a contribution as "any gift, subscription, loan, advance, or deposit of money or *anything of value* made by any person for the purpose of influencing any election for Federal office," 2 U.S.C. § 431(8)(A)(i) (emphasis added). Further, Commission Regulations specify that "the term *anything of value* includes all in-kind contributions," 11 C.F.R. § 100.52(d)(1) (emphasis in original), and that "the provision of goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution," *id.*

Commission Regulations also state that "[c]orporations and labor organizations (including officers, directors or other representatives acting as agents of corporations and labor organizations) are prohibited from facilitating the making of contributions to

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candidates or political committees" beyond their restricted classes. 11 C.F.R. § 114.2(f)(1). The Regulations provide several examples of this, including:

[f]undraising activities by corporations (except commercial vendors) that involve – [o]fficials or employees of the corporation or labor organization ordering or directing subordinates or support staff (who therefore are not acting as volunteers) to plan, organize or carry out the fundraising project as part of their work responsibilities using corporate or labor organization resources, unless the corporation receives advance payment for the fair market value of such services.

11 C.F.R. § 114.2(f)(2)(i)(A).

The Concert's promotional materials collectively imply that corporations were affiliated with and sponsored the Concert. See Exhibits E, F, and G. Both websites, which contain solicitations for OVF, also contain graphics that display the corporate logos with the language "In-Kind Sponsors," Exhibit F, or "Individual in-kind contributor affiliations," Exhibit G. Although individual names are displayed elsewhere, it is clear from the promotional materials and the corporate logos that the individuals were not acting entirely in their personal capacities. FECA and Commission Regulations plainly prohibit corporations from making in-kind contributions to federal candidates or committees and further consider organizing a fundraising event to benefit a federal candidate an in-kind contribution. Unless OVF paid the corporations the usual and normal charge for such fundraising services, it appears that OVF has accepted a prohibited corporate in-kind contribution.

The Obama Victory Fund Violated Commission Regulations by Failing to Include the Proper Joint Fundraising Notice on Solicitations

Commission Regulations require that all joint fundraising committee solicitations must include a joint fundraising notice, 11 C.F.R. § 102.17(c)(2), in addition to any normal disclaimer, 11 C.F.R. § 110.11. Such joint fundraising notices must include such information as the names of all participants, the allocation ratio, a statement informing contributors that they may designate their contributions only for a particular participant, and a statement informing contributors that the allocation ratio may change if the contributor separately contributes to any of the participants. See 11 C.F.R. § 102.17(c)(2)(i). None of the Concert's promotional materials contain a disclaimer or joint fundraising notice. See Exhibits E, F, and G.

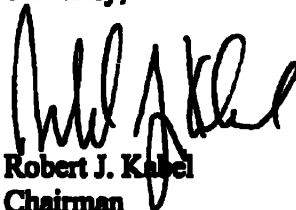
Accordingly, the DCRC respectfully requests that the Commission conduct an immediate investigation into the violations outlined above and impose the maximum penalty under law.

The above is correct and accurate to the best of my knowledge, information, and belief.

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Federal Election Commission
October 21, 2008
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Sincerely,



Robert J. Kabel
Chairman
District of Columbia Republican Committee

Sworn and subscribed to in Washington, DC by the said Robert J. Kabel
on October 22, 2008.

Charla Ramsey
Notary Public

My commission expires:

CHARLA Y. RAMSEY
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires October 14, 2011

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EXHIBIT A



Metropole | 202.696.8888

Change Location

HOME

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• MyVIDA

• News

About Us.

Vibrant. Vital. Visionary.

Change the way you look, feel and think about fitness. Introducing VIDA Fitness, a revolutionary way to work out. Whether you want to cut fat, build muscle, or just bring a bit of balance and flexibility into your life, VIDA can help you discover and achieve your fitness goals. More than just a gym, VIDA is a state-of-the-art fitness facility. Creatively designed on four levels of space, it features cutting edge equipment, smart design, and modern conveniences to deliver a total body experience. Complete with the Aura Spa, Bangi Salon, the Fuel Bar & Gear Shop VIDA is an artful arrangement of activity and atmosphere.

Flex, stretch, breathe - do whatever feels right. Because at the end of the day, VIDA is all about you.



Membership Inquiry >

Learn about VIDA's member benefits and special offers. [Contact Us!](#)



Be the first to know!

Join our email list to receive special offers and learn about the exciting news at VIDA.



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vida_obamaEvent

Page 1 of 2

From:**Sent:** Friday, September 19, 2008 5:23 PM**To:****Subject:** FW: Get Political with Sarah Jessica Parker

From: Vida Fitness [mailto:info@vidafitness.com]**Sent:** Friday, September 19, 2008 4:08 PM**To:****Subject:** Get Political with Sarah Jessica Parker



Sarah Jessica Parker

Co-Chair of the Obama Victory Fund



**OBAMA VICTORY
PRIDE**

Friday, September 26, 2008

VIDA Fitness

1515 15th Street, NW Washington, DC

6:00 PM – 8:00 PM

Host Committee: \$2,500

* Host committee members are invited to a VIP reception at 6:00 PM
at Halo, located at 1435 P Street, NW*

Supporter: \$250 per person

Friend: \$100 (Limited tickets at this level)

To R.S.V.P. please visit:

<https://donate.barackobama.com/page/contribute/DCSJP>

Contributions and gifts to Obama Victory Fund are not deductible for federal income tax

9/29/2008

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purposes.

If you have any questions, or would like additional information, please contact
Thomas Petrillo @ _____ or at _____ RSVP by fax to 202-572-
7917

Paid for by Obama Victory Fund, a joint fundraising committee authorized by Obama for America and
the Democratic National Committee.

VIDA and Bang do not endorse nor support any political candidate, but do encourage their members
and friends to get involved and participate in the electoral process.

[Unsubscribe](#) | [Update Profile](#) | [Confirm](#) | [Forward](#)


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vida_obamaEvent


Page 1 of 2

From:
 Sent: Friday, September 19, 2008 4:18 PM
 To:
 Subject: FW: Get Political with Sarah Jessica Parker


From: Bang Salon Spa [mailto:info@bangsalon.com]
 Sent: Friday, September 19, 2008 4:10 PM
 To:
 Subject: Get Political with Sarah Jessica Parker



**OBAMA
BIDEN**



Sarah Jessica Parker



PRIDE

Friday, September 26, 2008
VIDA Fitness
1515 15th Street, NW Washington, DC
6:00 PM – 8:00 PM

Host Committee: \$2,500
 * Host committee members are invited to a VIP reception at 6:00 PM
 at Halo, located at 1435 P Street, NW

Supporter: \$250 per person

Friend: \$100 (Limited tickets at this level)

To R.S.V.P. please visit:
<https://donate.barackobama.com/page/contribute/DCSJP>

Contributions and gifts to Obama Victory Fund are not deductible for federal income tax

9/29/2008

10044261253

purposes.

If you have any questions, or would like additional information, please contact
Thomas Petrillo @ _____ or at _____ RSVP by fax to 202-572-
7817

Paid for by Obama Victory Fund, a joint fundraising committee authorized by Obama for America and
the Democratic National Committee.

VIDA and Bang do not endorse nor support any political candidate, but do encourage their members
and friends to get involved and participate in the electoral process.

[Unsubscribe](#) | [Update Profile](#) | [Confirm](#) | [Forward](#)



Metropolis | 202.556.5555

Change Location

HOME

ABOUT

CAREERS

CONTACT



• [Home](#)

• [Privacy Policy](#)

Privacy Policy

At VIDA Fitness, we respect your interest in privacy. This policy is intended to ensure your information is handled in a safe and responsible manner. As we continue to evolve our website and incorporate new technologies to improve communication, our policies may change. We encourage you to refer to this policy on an ongoing basis to stay aware of our most current Privacy Policy practices.

The information we collect:

Currently, VIDAfitness.com gathers information (such as name, email address and zip code) strictly for contact purposes when users opt to fill out an email submission form to inquire about our company and about membership. In some cases we ask for other optional information including additional contact information and certain demographic information (such as phone number and gender).

How we use your information:

We may use your information to communicate special offers, promotions and information about our company to you via email. If you do not wish to receive these emails you will have the option to opt out of future mailings (see the section below). We may also use your information to compile usage statistics and other data regarding the use of the web site services.

We will not share your personally identifiable information with third parties, outside of the limited circumstances referenced in the paragraph immediately below. We may, however, share with partners aggregated statistical data that includes users' demographic information but does not identify them. We reserve the right to provide any and all such aggregated and non-individually identifiable data to third parties.

When we will use your email information:

VIDA Fitness collects email information to provide a more personalized and relevant experience. If you give us your email address on the home page, when you inquire about membership or sign up, we will send you emails about exclusive offers, news at VIDA and new club openings. If you have previously opted out of receiving emails from us, providing updated information will act as an 'opt back-in'.

If you want to opt-out of receiving promotional emails, simply click on the unsubscribe link located on the bottom of all of our emails. Although we strive to update our email list as frequently as possible, you might receive another contact before we are able to remove you. Please note that you will continue to receive member services related



Membership Inquiry

Learn about VIDA's member benefits and special offers. [Contact Us!](#)



Be the first to know!

Join our email list to receive special offers and learn about the exciting news at VIDA.



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communications as it pertains to your member account. VIDA may use any of your contact information held on file (including email, mail, phone & fax) to communicate with you in relation to day to day administrative activities, such as reservation and important service alerts.

VIDA never sells or rents your name, email address, or any other personally identifiable information to third-parties.

Situations in which we share user information:

Agents: We employ other companies and individuals to perform functions on our behalf. Examples include creating and maintaining our website, sending postal mail and email, removing repetitive information from customer lists, analyzing data, providing marketing assistance and providing customer service. They have access to personal information needed to perform their functions, but may not use it for other purposes.

Protection of VIDA Fitness: We release account and other personal information when we believe release is necessary to comply with law; enforce or apply our Terms of Use and other agreements; or protect the rights, property, or safety of our company, our users, or others. This includes exchanging information with other companies and organizations for fraud protection.

We use cookies:

We use cookies to enhance your experience on our web site. For example a cookie enables us to remember the region or specific club page you have visited so the next time you return to our site you do not have to select that club or region again.

You can set your internet browser (like Internet Explorer or Netscape) to warn you every time a cookie is sent, or to turn off all cookies. See your browser's Help menu for these instructions. By disabling your cookies you will not have access to some of the features that enhance your user experience on our site.

A message about minors using our website:

We are committed to making a safe environment for children on our site. When we collect information for membership inquiry purposes, users are informed they must be at least 18 years of age or have parental consent to provide personally identifying information to us. We encourage parents to monitor children's internet use to keep them safe while navigating VIDAFitness.com and all other areas of the Internet.

About external links found on this website:

While this site may contain links to other sites, please note that when you click on one of these links, you are 'clicking' away from VIDAFitness.com to another website. We encourage you to read the privacy statements of these linked sites as their privacy policies may differ from ours. We are not responsible for the privacy practices or the content of such websites.

Have questions?

If you have questions regarding our Privacy Policy, other areas of our website or our clubs, please contact us. Your feedback is always welcome and appreciated.

10044261257



Saturday, September 20 - 8:00 pm



FUNDRAISER

Saturday, Sept 20

TAKE ONE



TAKE ONE

Many thanks to our individual in-kind contributors (sponsors) affiliated with the following organizations:

Lisa Williams
Cher Cardillo Freeman
James Williams

Chase Allen Moore

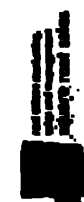
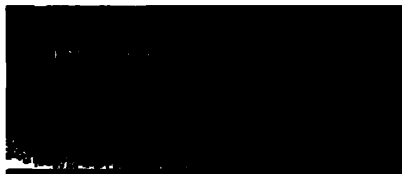


EXHIBIT F

Get Local! Create Your MyBO Account (or Login) Email Address

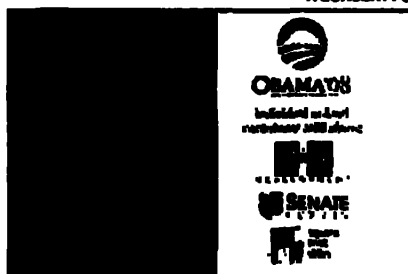
Zip Code

[REDACTED]
[REDACTED]
[REDACTED]

Personal Fundraising

Login

A CONCERT FOR CHANGE



A Concert for Change

Join us at the historic Atlas Performing Arts Center for...

WHAT: A concert-cultural fundraiser to support **THE OBAMA CAMPAIGN****WHEN:** Saturday, September 20**DOORS:** open at 7:00 pm (come early for cash bar)**SHOW:** starts at 8:00 pm**WHERE:** The Atlas Performing Arts Center 1333 H Street NE, Washington DC**BOX OFFICE:** (202) 386-7888**TICKETS:** Your donation is your ticket

Minimum Individual Donation/Ticket — \$35

Suggested Individual Donation — \$100-\$500

Maximum Individual Donation — \$4,500

Donations of \$100+ will receive two (2) drink tickets

Our Total Goal = \$300,000

100% of ALL donations go directly to the Obama Victory Fund

All individual donors will be recognized by the Obama Victory Fund

INSTRUCTIONS:

- 1) Click on the thermometer to go the donation portal
- 2) Complete the donation page (minimum \$35 for entry)
- 3) Submit your donation

IMPORTANT: Your donation is your ticket. The box office will have a record of your donation. Identify yourself at the box office for entry. This donation portal allows for one donor to donate at a time. For example, if you'd like to donate for two people, you'll need to make two separate donations, as we can

Contribute Now



Graphs updated every 5 minutes

Create your own page now!

account for two seats. Donate soon. There are only 280 seats.)

More thanks to our generous individual in-kind contributing sponsors:

Anthony Washington, M & A Development

Chase Alan Moore, Square Root Sales / Senate Realty

Cher L. Castillo Freeman, Senate Realty

James Williams, Senate Realty

Lisa Williams, Senate Realty

Make a donation to help meet my goal by clicking on the thermometer.

[Report Objectionable Content](#)

[Privacy Policy](#)

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Graphic updated every 5 minutes

Click on the map to see more

A Concert For Change

Join us at the historic Arden Theatre for

WHAT a concert-cabaret fundraiser to support **THE OBAMA CAMPAIGN**

When Saturday, September 20, 2008 at 8:00pm

Where The Arden Performing Arts Center (Valet Parking Available)

(The Long Theatre- 200 seats, space is limited)

1235 H St. NE Washington DC

Box Office (202) 368-7983

TICKETS cash bar provided

Minimum individual donation..... \$35

Suggested individual donation..... \$100-\$500

Maximum individual donation..... \$4,000

(Donations of \$100+ will receive 2 drink tickets)

Our Total Goal- \$20,000

100% of donations go directly to the Obama Victory Fund.

All individual donors will be recognized by the DNC.

More Thanks to our sponsors and to the donors

Anthony Washington, NSA Development

Cheryl Ann Mason, Square Root Sales/Senate Realty Corp

Cheryl L. O'Neill Freeman, Senate Realty Corp

OutLinks:

Capital US

What We Stand For

Blog

Contribute

Volunteer

Site Resources:

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Problems and Comments

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Groups

Events

Fundraise

Blog

Letters

Social:



Copyright © 1999-2008 DNC Service Corporation Privacy Policy Technical Problems and Comments Manage Your Account

James Williams, Senate Realty Corp

Jim Williams, Senate Realty Corp


Paid for by the Democratic National Committee - 400 South Capitol Street SE, Washington, D.C., 20003.

This communication is not authorized by any candidate or candidate's campaign.

10044261261


THE UNIVERSITY OF
THE STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
JULIA E. MILLER, ATTORNEY GENERAL
110 NASSAU ST., 10TH FLOOR
NEW YORK, NY 10038
TEL: 212-424-9500 FAX: 212-424-9501
WWW.OAG.STATE.NY.US


Michelle Obama
Barack Obama




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www.obama08.com

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DEVELOPMENT


SENATE
REALTY


**Square
Foot
Sales**



OBAMA'08
www.obama08.com

Individual in-kind
contributor affiliations:



DEVELOPMENT

